

Paper No. 08312005

Craig A. Fieschko  
DEWITT ROSS & STEVENS, S.C.  
Firststar Financial Center  
8000 Excelsior Drive Suite 401  
Madison, WI 53717-1914

SEP - 8 2005

In re Application of	)	
Gibb	)	
Application No. 09/888,940	)	DECISION ON PETITION
Filed: 6/25/2001	)	
For: Delay Line Anodes	)	
	)	

This is a decision on the petition, filed July 7, 2005 under 37 CFR 1.181, to invoke the supervisory authority of the Commissioner to review the examiner's action of May 16, 2005. Petitioner complains that the examiner in charge failed to address the applicant's March 9, 2005 arguments in the Final rejection of May 16, 2005. The petition is **DENIED**.

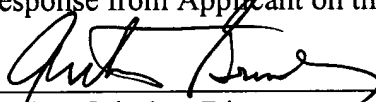
A review of the application file indicates that the examiner did in fact address the arguments. Reading the office action as a whole, it is clear that the Examiner has clearly set forth a position as to how the Meijer reference teaches the broad language "adaptably mounted in spaced relation to have adjustable spacing therebetween." The Examiner correctly addressed the claims and in the arguments section clearly communicated to the Applicant that the claims are being interpreted in their broadest reasonable interpretation (examiner stated "as broadly claimed"). Neither the March 9, 2005 arguments nor the July 7, 2005 petition uses language that is commensurate in scope with the claim language. For example, the petition language "adjustably respaceable" implies anodes that can be adjusted subsequent to manufacture. The broad language of the claims reads on this, but does not necessarily require this. The Examiner correctly communicated to the Applicant that the Meijer reference is applied "as broadly claimed".

Further, the Examiner addressed the Applicant's arguments by stating "since there is no fix [sic] structure between the anodes, an anode is free to relatively move from the other. In other words the space is can be adjusted." The examiner in the rejection section of the office action on page 3 discusses Meijer in detail and explicitly quotes Meijer who teaches that the distance of the

spacing depends upon the diameter. It is clear therefore, taking the office action as a whole, that the examiner has communicated a position that different diameters achieve different spacings and therefore Meijer teaches the claimed anodes "adaptably mounted in spaced relation to have adjustable spacing therebetween."

Contrary to the petition, the examiner has also provided on page 3 a motivation to combine Meijer with Friedman.

In conclusion, the examiner has set forth a rejection of the claims and given a motivation to combine the references. The office action as a whole addresses Applicant's arguments by communicating the Examiner's position on how the claims are being interpreted and how the art reads on the claims. The status of the application remains under Final rejection awaiting response from Applicant on the merits to the rejection.

  
\_\_\_\_\_  
Arthur Grimley, Director  
Technology Center 2800  
571-272-1750